

Amendments to the Drawings

Fig. 3A has been amended to correct a printing error, whereby the value “03000001” did not correctly align on the page with its corresponding reference number **371**.

Fig. 3B has been amended to correct a typographical error, whereby the intended “Date of Transfer” value of “02/01/2003” was incorrectly stated as “01/01/03”. With this correction, **Fig. 3B** is now aligned its corresponding information at **624** of **Fig. 6**.

No new matter is introduced with these corrections.

REMARKS

The Specification and Drawings have been amended. Claims 10, 12 - 13, and 19 have been amended (and these amendments are not made in view of the cited art). No new matter has been introduced with these amendments, all of which are supported in the application as originally filed. Claims 1 - 20 remain in the application.

Applicant is not conceding that the subject matter encompassed by the claims as presented prior to this Amendment is not patentable over the art cited by the Examiner, as claim amendments and cancellations in the present application are directed toward facilitating expeditious prosecution of the application and allowance of the currently-presented claims at an early date. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by the claims as presented prior to this Amendment and additional claims, in one or more continuing applications.

I. Proposed Replacement Drawings

Proposed replacement drawings are provided herewith for **Figs. 3A and 3B**, as discussed above in “Amendments to the Drawings”. No new matter has been introduced with these proposed replacement drawings.

II. Claim Objections

Paragraph 2 of the Office Action dated October 2, 2007 (hereinafter, “the Office Action”) states that Claim 6 is objected to as “being a substantial duplicate of claim 5”. Applicant

respectfully disagrees. Claim 5 recites "... usable to track transfers of the animals ..." whereas Claim 6 recites "... usable to track locations of the animals ...". A transfer is not the same as a location, and thus Claim 6 is not a substantial duplicate of Claim 5. (For example, if the transfer pertains to ownership, this transfer might occur without any change in the location.) The Examiner is therefore respectfully requested to withdraw this claim objection.

II. Rejections under 35 U. S. C. §102(e)

Paragraph 4 of the Office Action states that Claims 1 - 20 are rejected under 35 U.S.C. §102(e) as being anticipated by U. S. Patent Publication 2003/0177025 to Curkendall et al. (hereinafter, "Curkendall"). This rejection is respectfully traversed.

As stated by the Court of Appeals for the Federal Circuit, "Anticipation under 35 U.S.C. §102 requires the disclosure in a single piece of prior art of each and every limitation of a claimed invention." *Apple Computer Inc. v. Articulate Sys. Inc.*, 57 U.S.P.Q.2d 1057, 1061 (Fed. Cir. 2000), emphasis added. In another case, the Court of Appeals stated that a finding of anticipation requires that there must be no difference between the claimed invention and the disclosure of the cited reference as viewed by one of ordinary skill in the art. See *Scripps Clinic & Research Foundation v. Genentech Inc.*, 927 F.2d 1565, 1576, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991). In yet another case, the Court of Appeals held that a finding of anticipation requires absolute identity for each and every element set forth in the claimed invention. See *Trintec Indus. v. Top-U.S.A. Corp.*, 63 U.S.P.Q.2d 1597 (Fed. Cir. 2002).

Referring first to Applicant's independent Claim 1, this claim recites:

A method of tracking animal transfers with animal passports, the method comprising steps of:

creating an animal passport to represent a transfer of animals from a transferor to a transferee;

assigning a unique passport identifier to each created animal passport, thereby providing a unique identification of the underlying transfer; and

repeating the creating and assigning steps for each subsequent transfer of one or more of the animals, wherein the animal passport created for each subsequent transfer also records the unique passport identifier assigned to each most-recent transfer of those animals. (emphasis added).

Applicant respectfully submits that the cited portions of Curkendall do not teach, or suggest, at least the above-underlined limitations of independent Claim 1, as will now be discussed.

The Office Action cites para. [0003] as teaching the “creating” element recited on lines 3 - 4 of Claim 1. However, para. [0003] does not provide any discussion of “a transfer of animals from a transferor to a transferee”.

The Office Action cites para. [0020] as teaching the “assigning” element recited on lines 5 - 6 of Claim 1. However, para. [0020] does not provide any discussion of “thereby providing a unique identification of the underlying transfer” (Claim 1, lines 5 - 6, emphasis added).

The Office Action cites paras. [0022] and [0020] as teaching the “repeating” element recited on lines 7 - 9 of Claim 1. Applicant respectfully notes that para. [0022] discusses individual animal identification. However, individually identifying an animal is not the same as

uniquely identifying a transfer of animals, as Applicant has recited on line 3 of Claim 1. Furthermore, para. [0020] and para. [0022] provide no discussion, or suggestion, of Applicant's claimed "... the animal passport created for each subsequent transfer also records the unique passport identifier assigned to each most-recent transfer of those animals" (Claim 1, lines 8 - 9, emphasis added).

Accordingly, as demonstrated above, differences exist between Curkendall and Applicant's claimed invention as recited in Claim 1, and thus Curkendall does not anticipate Claim 1 according to the holding in *Scripps Clinic*. Applicant also respectfully submits that the above-provided discussions demonstrate that Curkendall fails to disclose each and every limitation of independent Claim 1, and thus Curkendall does not anticipate Claim 1 according to the holding in *Apple Computer Inc.* Stated another way, it can be seen that absolute identity is not found in the Curkendall disclosure for each and every element of Claim 1, and thus Curkendall does not anticipate Claim 1 according to the holding in *Trintec Indus.*

Applicant therefore respectfully submits that independent Claim 1 is patentable over Curkendall. Dependent Claims 2 - 15 are deemed patentable over Curkendall by virtue of at least the allowability of independent Claim 1, from which they depend.

Referring next to independent Claim 16, this claim recites:

A system for uniquely identifying animals transferred in groups, the system comprising:
means for associating a unique identifier with each transfer of a group of

animals;

means for recording the unique identifiers in a repository, along with a specification of how many animals are in the group and an identification of one or more transferors and one or more transferees who are parties to the transfer; and means for linking each subsequent transfer of any of the animals to prior transfers by associating a new *unique* identifier with each such subsequent transfer and specifying an association between the unique identifier of the prior transfer and the new unique identifier of the subsequent transfer. (emphasis added).

Applicant respectfully submits that the cited portions of Curkendall do not teach, or suggest, at least the above-underlined limitations of independent Claim 16, as will now be discussed.

The Office Action cites para. [0205] as teaching the “means for associating” element recited on line 3 of Claim 16. Para. [0205] discusses various types of individual animal identification, such as ear tags (to be placed in an animal’s ear), an implant (to be placed inside the animal), and so forth, to “provide unique identification of each animal” (para. [0205], lines 5 - 6). Identifying an individual animal, as discussed in para. [0205], is not the same as Applicant’s claimed “associating a unique identifier with each transfer of a group of animals”. For example, suppose that 100 animals are transferred, according to the example scenario shown in Applicant’s **Fig. 1** for “Ranch A” transferring 100 cattle to “Auction barn”. Applicant’s Claim 16 recites that “a unique identifier” is associated with this transfer; see reference number **205** in **Fig. 2**, where the identifier “03000001” is associated with this transfer of 100 animals (see reference number **210**). See also p. 10, line 20 - p. 2, line 9 of Applicant’s specification, where this example scenario is discussed. By contrast, Curkendall’s para. [0205] states that each of these 100 cattle has its own unique identifier.

The Office Action cites para. [0027] as teaching the “means for recording” element recited on lines 4 - 6 of Claim 16. Applicant notes that para. [0027] discusses various databases. However, this is not what Applicant has claimed, and Applicant respectfully submits that para. [0027] does not discuss, or suggest, “recording the unique identifiers [associated with transfers of groups of animals] ... along with a specification of how many animals are in the group and an identification of one or more transferors and one or more transferees who are parties to the transfer” (Claim 16, lines 4 - 6, emphasis added).

The Office Action cites para. [0395] as teaching the “means for linking” element recited on lines 7 - 10 of Claim 16. Applicant respectfully notes that para. [0395] explicitly states, as quoted in the Office Action, an “Animal ID is common through changes of ownership of the live animal” (para, [0395], lines 4 - 6, emphasis added). This is in sharp contrast to Applicant’s claimed approach, which explicitly states that “... associating a new unique identifier with each such subsequent transfer ...” (Claim 16, line 7, emphasis added) – that is, Applicant’s Claim 16 recites that the identifier is new upon each transfer of any of the animals, as opposed to Curkendall’s identifier that is common through changes of ownership.

Accordingly, as demonstrated above, differences exist between Curkendall and Applicant’s claimed invention as recited in Claim 16, and thus Curkendall does not anticipate Claim 16 according to the holding in *Scripps Clinic*. Applicant also respectfully submits that the above-provided discussions demonstrate that Curkendall fails to disclose each and every limitation of independent Claim 16, and thus Curkendall does not anticipate Claim 16 according to the

holding in *Apple Computer Inc.* Stated another way, it can be seen that absolute identity is not found in the Curkendall disclosure for each and every element of Claim 16, and thus Curkendall does not anticipate Claim 16 according to the holding in *Trintec Indus.*

Applicant therefore respectfully submits that independent Claim 16 is patentable over Curkendall. Dependent Claim 17 is deemed patentable over Curkendall by virtue of at least the allowability of independent Claim 16, from which it depends.

Referring next to independent Claim 18, this claim recites:

A system for identifying groups of animals from birth to death, comprising:
means for associating a unique identifier with animals transferred from an original owner thereof;
means for associating a different unique identifier with each subsequent transfer of the animals or any subset thereof; and
means for linking, at each subsequent transfer, the different unique identifier with the unique identifier associated with a most-recent transfer of the animals in that subsequent transfer. (emphasis added).

Applicant respectfully submits that the cited portions of Curkendall do not teach, or suggest, at least the above-underlined limitations of independent Claim 18, as will now be discussed.

The Office Action cites para. [0395] as teaching the “means for associating” element recited on lines 5 - 6 of Claim 18. However, as discussed above with regard to independent Claim 16, Applicant respectfully notes that para. [0395] explicitly states that an “Animal ID is common through changes of ownership of the live animal” (para. [0395], lines 4 - 6, emphasis added).

This is in sharp contrast to Applicant's claimed approach, which explicitly states that "... associating a different unique identifier with each subsequent transfer of the animals or any subset thereof ..." (Claim 18, lines 5 - 6, emphasis added) – that is, Applicant's Claim 18 recites that the identifier is different upon each transfer of the animals or any subset thereof, as opposed to Curkendall's identifier that is common through changes of ownership.

Accordingly, as demonstrated above, differences exist between Curkendall and Applicant's claimed invention as recited in Claim 18, and thus Curkendall does not anticipate Claim 18 according to the holding in *Scripps Clinic*. Applicant also respectfully submits that the above-provided discussions demonstrate that Curkendall fails to disclose each and every limitation of independent Claim 18, and thus Curkendall does not anticipate Claim 18 according to the holding in *Apple Computer Inc.* Stated another way, it can be seen that absolute identity is not found in the Curkendall disclosure for each and every element of Claim 18, and thus Curkendall does not anticipate Claim 18 according to the holding in *Trintec Indus.*

Applicant therefore respectfully submits that independent Claim 18 is patentable over Curkendall. Dependent Claim 19 is deemed patentable over Curkendall by virtue of at least the allowability of independent Claim 18, from which it depends.

Referring next to independent Claim 20, this claim recites:

A method of tracking transfers with passports, the method comprising steps of:
creating a passport to represent a transfer of one or more entities from a transferor to a transferee;

assigning a unique passport identifier to each created passport, thereby providing a unique identification of the underlying transfer; and repeating the creating and assigning steps for each subsequent transfer of one or more of the transferred entities, wherein the passport created for each subsequent transfer also records the unique passport identifier assigned to each most-recent transfer of those entities. (emphasis added).

Applicant respectfully submits that the cited portions of Curkendall do not teach, or suggest, at least the above-underlined limitations of independent Claim 20, as will now be discussed.

The Office Action cites para. [0395] as teaching the “repeating” element recited on lines 7 - 9 of Claim 20. By virtue of incorporating the “assigning” element recited on lines 5 - 6 of Claim 20, it can be seen that the “repeating” element (Claim 20, line 7) causes “assigning a unique [and therefore different] passport identifier” (Claim 20, line 5) “for each subsequent transfer” (Claim 20, line 7, emphasis added). As discussed above with regard to independent Claims 16 and 18, para. [0395] explicitly states that an “Animal ID is common through changes of ownership of the live animal” (para, [0395], lines 4 - 6, emphasis added). This is in sharp contrast to Applicant’s claimed approach of assigning a unique passport identifier “... for each subsequent transfer of one or more of the transferred entities ...” (Claim 20, lines 7 - 8, emphasis added).

Accordingly, as demonstrated above, differences exist between Curkendall and Applicant’s claimed invention as recited in Claim 20, and thus Curkendall does not anticipate Claim 20 according to the holding in *Scripps Clinic*. Applicant also respectfully submits that the above-provided discussions demonstrate that Curkendall fails to disclose each and every limitation

of independent Claim 20, and thus Curkendall does not anticipate Claim 20 according to the holding in *Apple Computer Inc.* Stated another way, it can be seen that absolute identity is not found in the Curkendall disclosure for each and every element of Claim 20, and thus Curkendall does not anticipate Claim 20 according to the holding in *Trintec Indus.*

Applicant therefore respectfully submits that independent Claim 20 is patentable over Curkendall.

In view of the above, the Examiner is respectfully requested to withdraw the §102 rejection of all claims.

III. Conclusion

Applicant respectfully requests reconsideration of the pending rejected claims, withdrawal of all presently outstanding objections and rejections, and allowance of all claims at an early date.

Respectfully submitted,

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Attachments: Replacement Sheets (2)